

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Dennis Gene Jorgens and Susan Marie
Jorgens,

Debtors: Chapter 7 Case
Case No. BKY 04-50859-GFK.

**NOTICE OF HEARING AND
MOTION FOR RELIEF FROM STAY**

TO: The Debtors, Debtors' Attorney, Chapter 7 Trustee, United States Trustee, and the
other parties in interest specified in Local Rule 9013-3(a).

1. **Mortgage Electronic Registration Systems, Inc. (Movant)**, a secured creditor
of the Debtors herein, by its undersigned attorney, moves the Court for the relief requested
below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion at 1:30 o'clock p.m., on October
6, 2004, before the Honorable Gregory F. Kishel, in Courtroom 2, 416 U.S. Courthouse,
515 West First Street, Duluth MN 55802, or as soon thereafter as counsel can be heard.

3. Any response to this motion must be filed and delivered not later than October 1, 2004, which is three (3) days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than September 27, 2004, which is seven (7) days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT A HEARING.

4. This motion is filed pursuant to Bankruptcy Rule 4001 and Local Rule 9013-2 and Movant seeks relief from the automatic stay of 11 U.S.C. §362 with respect to certain real property owned by the Debtors and subject to Movant's first mortgage lien.

5. The Petition commencing this Chapter 7 Case was filed on July 29, 2004, and the case is now pending in this Court. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §157(a), §1334, 11 U.S.C. §362(d), Bankruptcy Rule 5005, Local Rule 1070-1 and other applicable rules. This proceeding is a core proceeding.

6. By certain mortgage dated October 24, 2001, in the original principal amount of \$143,550.00 (**Mortgage**), Movant acquired a first mortgagee's interest in the following real property (**Property**):

The East 660 feet North 132 feet of Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4), Section 1, Township 135, Range 29, Crow Wing County, Minnesota..

The Mortgage was filed for record in the office of the County Recorder, in and for Crow Wing County, Minnesota, on October 30, 2001, as document number 0596827.

7. The subject property has a market value of \$172,000.00. Furthermore, the subject real estate is encumbered in the amount of \$0 by other mortgage(s) and/or lien(s). The total amount of debt secured by the subject property is \$141,576.56, including Movant's mortgage. Hence, Debtors have little or no actual equity in the property.

8. Debtors' Three (3) month delinquency under the terms of the Mortgage constitute cause, within the meaning of 11 U.S.C. §362(d)(1), entitling Movant to relief from the automatic stay. Movant does not have, and has not been offered, adequate protection of its interest in the Property.

WHEREFORE, Movant, by its undersigned attorney, moves the Court for an order modifying the automatic stay of 11 U.S.C. §362(a) so as to permit Movant to foreclose its Mortgage on the Property and for such other relief as the Court may deem to be just, fair and equitable.

Dated this 10th day of September, 2004.

PETERSON, FRAM AND BERGMAN

A Professional Association

BY: /e/ Michael T. Oberle
Michael T. Oberle, Atty. Reg. #130126
Attorneys for Movant
Suite 300, 50 East Fifth Street
St. Paul, Minnesota 55101-1197
Telephone: (651) 291-8955

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Dennis Gene Jorgens and Susan Marie
Jorgens,

Debtors: Chapter 7 Case
Case No. BKY 04-50859-GFK.

AFFIDAVIT IN SUPPORT OF
MOTION FOR RELIEF FROM STAY

STATE OF TEXAS)
) ss.
COUNTY OF TRAVIS)

I, LILIANA RAMIREZ, your affiant, being first duly sworn on
oath, state as follows:

1. I am an employee of Guaranty Residential Lending, Inc. servicing agent for
Mortgage Electronic Registration Systems, Inc. (Movant), and I have personal knowledge
of the facts stated herein.

2. I make this Affidavit in support of a motion to lift, modify or condition the
bankruptcy stay.

3. Debtors are the mortgagors on a mortgage dated October 24, 2001 which covers real property located in Crow Wing County and legally described as follows:

The East 660 feet North 132 feet of Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4), Section 1, Township 135, Range 29, Crow Wing County, Minnesota.,

and which is commonly known as: 26993 Middle Cullen Road, Nisswa, MN 56468. The mortgage was given to secure a promissory note. Copies of the note and the mortgage are attached hereto as Exhibit A and Exhibit B, respectively, and incorporated herein by this reference.

4. On or about July 29, 2004, Debtors filed a Petition under Chapter 7 of Title 11 U.S. Code in the United States Bankruptcy Court for the District of Minnesota.

5. Debtors have failed to make Three (3) payments, resulting in an arrearage of \$3,818.53, including late charges. The total mortgage debt is \$141,576.56, which includes accrued interest through September 2, 2004. Thereafter, interest accrues on the unpaid principal balance at \$24.78 per day. Movant has also incurred attorney's fees and costs in the bringing of this motion.

6. Based upon information and belief, the subject property has a market value of \$172,000.00. Furthermore, it is believed that the subject real estate is encumbered in the amount of \$0 by other mortgage(s) and/or lien(s). The total amount of debt secured by the

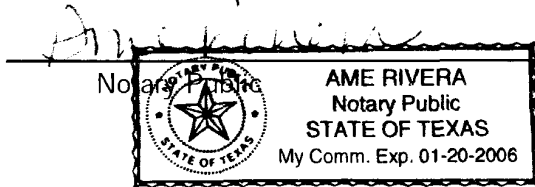
subject property is \$141,576.56, including Movant's mortgage.

7. I have read the Motion in this matter, and it is true to the best of my knowledge, information and belief.

8. Further, I saith not.


LILIANA RAMIREZ

Subscribed and sworn to before me
this 8 day of September, 2004.



MIN 100012900014606839

NOTE

1460683

October 24, 2001

[Date]

BAXTER

[City]

MINNESOTA

[State]

26993 MIDDLE CULLEN ROAD, NISSWA, MINNESOTA 56468
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 143,550.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is FBN Corporation dba Mortgage Masters

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.500 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on December 1, 2001. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on November 1, 2031, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 1300 S. Mopac Expressway, Austin, TX 78746-6947

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 907.34

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

VO6D251



-5N (0005)

Form 3200 1/01

VMP MORTGAGE FORMS - (800)521-7291



1460683

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

Susan M. Jorgens (Seal)
SUSAN M JORGENS -Borrower

Dennis G. Jorgens (Seal)
DENNIS G JORGENS -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

[Sign Original Only]

DATE Oct. 29, 2001 REC# 57124
 REGISTRATION TAX HEREON OF \$ 350.16
Lawrence E. Bond BY 1/2
 CROW WING COUNTY TREASURER
Monke - Ambrose BY nm
 CROW WING COUNTY AUDITOR
28 0011 00 A 00009

Office of County Recorder
 County of Crow Wing, MN

I hereby certify that the within instrument was filed
 in this office for record on the 30 day of Oct
 A.D. 2001 at 8 o'clock A.M.
 and was duly recorded as Doc. No. 0596827

Wicki Flange County Recorder
 By Wicki Flange Deputy
 Signature

[Space Above This Line For Recording Data]

1460683

MORTGAGE

MIN 100012900014606839

Return To: GUARANTY RESIDENTIAL LENDING, INC.
 Banking & Shipping Dept.
 P.O. Box 2198
 Austin, TX 78768-2198

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated October 24, 2001 together with all Riders to this document.

MINNESOTA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS Form 3024 1/01

U06MN01

1210-6A(MN) (0005)

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Initials: 5/28

VMP MORTGAGE FORMS - (800)521-7281

01-22267



(B) "Borrower" is
SUSAN M. JORGENSEN AND
DENNIS G. JORGENSEN WIFE AND HUSBAND

1460683

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is
FBN Corporation dba Mortgage Masters
 Lender is a corporation
 organized and existing under the laws of **MINNESOTA**
 Lender's address is **2215 South 6th Street**
Brainerd, MN 56401

(E) "Note" means the promissory note signed by Borrower and dated **October 24, 2001**.
 The Note states that Borrower owes Lender **ONE HUNDRED FORTY THREE THOUSAND FIVE HUNDRED FIFTY & 00/100** Dollars
 (U.S. \$ **143,550.00**) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **November 1, 2031**

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> 1-4 Family Rider |
| <input type="checkbox"/> VA Rider | <input type="checkbox"/> Biweekly Payment Rider | <input type="checkbox"/> Other(s) [specify] |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

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(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, with power of sale, the following described property located in the County of Crow Wing :

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]:

THE EAST 660 FEET NORTH 132 FEET OF NORTHEAST QUARTER OF THE NORTHEAST QUARTER (NE1/4 NE1/4), SECTION 1, TOWNSHIP 135, RANGE 29, CROW WING COUNTY, MINNESOTA.

Parcel ID Number: 280011100A00009
26993 MIDDLE CULLEN ROAD
NISSWA
("Property Address"):

which currently has the address of

[City], Minnesota 56468

[Street]

[Zip Code]

UO6MN03

UO6MN03-6A(MN) (0005)

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Initials: *stid*

Form 3024 - 1/01

1460683

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

Susan M. Jorgens (Seal)
SUSAN M JORGENS -Borrower

Dennis G. Jorgens (Seal)
DENNIS G JORGENS -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

STATE OF MINNESOTA, Crow Wing

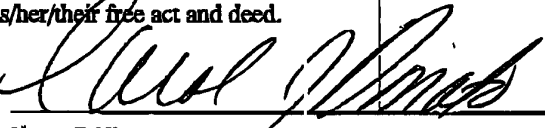
1460683

County ss:

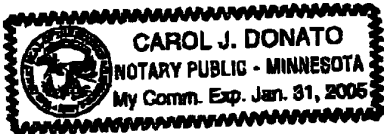
On this 24th day of October 2001, before me appeared

Susan M. Jorgens and Dennis G. Jorgens, wife and husband

to me personally known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she/they executed the same as his/her/their free act and deed.



Notary Public
My Commission Expires:



This instrument was drafted by:
Guaranty Residential
3001 Metro Drive
Bloomington, MN 55425

Tax statements for the real property described in this instrument should be sent to:
Susan M. Jorgens
26993 Middle Cullen Rd
Nisswa, MN 56468

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

**In Re: Dennis Gene Jorgens and Susan Marie
 Jorgens,**

**Debtors: Chapter 7 Case
Case No. BKY 04-50859-GFK.**

MEMORANDUM OF LAW

Mortgage Electronic Registration Systems, Inc. (**Movant**) submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

Movant holds a valid, duly perfected mortgage on certain real property owned by Debtors. The Debtors are delinquent with respect to payments due under the mortgage for the months of July 2004 through September 2004 in a total amount of \$3,818.53, including late charges. The total mortgage debt is \$141,576.56, which includes accrued interest through September 2, 2004. Thereafter, interest accrues on the unpaid principal balance at \$24.78 per day.

The subject property has a market value of \$172,000.00. Furthermore, the subject real estate is encumbered in the amount of \$0 by other mortgage(s) and/or lien(s). The total amount of debt secured by the subject property is \$141,576.56, including Movant's mortgage.

ARGUMENT

Under §362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in property of such [creditor]." 11 U.S.C. §362(d)(1). Debtors have failed to make payments due under the terms of the mortgage for a period of over Three (3) months. Debtors have little or no actual equity in the property; hence, Movant lacks adequate protection in the form of an equity cushion in the property. Furthermore, debtors have otherwise failed to provide Movant with adequate protection of its interest in the property.

Such circumstances constitute cause, within the meaning of §362(d)(1), justifying relief from the stay. In Re Tainan, 48 B.R. 250 (Bkrtcy E.D. Pa. 1985); In Re Quinlan, 12 B.R. 516 (Bkrtcy. W.D. Wis. 1981).

Accordingly, Movant is entitled to an order terminating the stay of 11 U.S.C. §362(a) and authorizing it to foreclose its mortgage on the property.

Dated this 10th day of September, 2004.

PETERSON, FRAM AND BERGMAN
A Professional Association

BY: /e/ Michael T. Oberle
Michael T. Oberle
Atty. Reg. #130126

Attorneys for Movant
Suite 300, 50 East Fifth Street
St. Paul, Minnesota 55101
Telephone: (651) 291-8955

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

**In Re: Dennis Gene Jorgens and Susan Marie
 Jorgens,**

**Debtors: Chapter 7 Case
Case No. BKY 04-50859-GFK.**

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

I, Michael T. Oberle, employed by **PETERSON, FRAM AND BERGMAN, P.A.**, attorneys licensed to practice in this court, with an office at Suite 300, 50 East Fifth Street, St. Paul, MN, 55101, declare that on September 10, 2004 I served the annexed: a) Notice of Hearing and Motion for Relief from Stay, b) Affidavit in Support of Motion for Relief from Stay, c) Memorandum of Law, and d) proposed Order for Relief upon each of the parties listed below by mailing to each of them a copy of each thereof, enclosed in an envelope, first class postage prepaid, and by depositing same in the post office at St. Paul, Minnesota, directed to them at their last known addresses, as follows:

United States Trustee
300 S 4th St # 1015
Minneapolis MN 55415-1329

Dennis Gene Jorgens and
Susan Marie Jorgens
26993 Middle Cullen Road
Nisswa, MN 56468

Dorraine A. Larison
Chapter 7 Trustee
1010 West St. Germain, Room 600
St. Cloud, MN 56301

James P. Fossum, Esq.
P.O. Box 552
Brainerd, MN 56401

And I declare, under penalty of perjury, that the foregoing is true and correct.

Signed: /e/ Michael T. Oberle

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Dennis Gene Jorgens and Susan
 Marie Jorgens,

Debtors: Chapter 7 Case
Case No. BKY 04-50859-GFK.

ORDER FOR RELIEF FROM AUTOMATIC STAY

The above-entitled matter came before the Court on October 6, 2004, on the motion of Mortgage Electronic Registration Systems, Inc. (**Movant**) seeking relief from the automatic stay of 11 U.S.C. §362(a). Based upon the statements of counsel and all of the files, records and proceedings herein, the Court now finds that cause exists entitling Movant to the requested relief.

NOW, THEREFORE, IT IS HEREBY ORDERED that the automatic stay of 11 U.S.C. §362(a) is immediately terminated as to Movant; and, Movant, its successors or assigns, are hereby authorized to foreclose pursuant to Minnesota law that certain Mortgage dated October 24, 2001, filed for record in the office of the County Recorder in and for Crow Wing County, Minnesota, on October 30, 2001, and recorded as Document No. 0596827 and covering real property located in Crow Wing County, Minnesota, which is legally described as follows:

The East 660 feet North 132 feet of Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4), Section 1, Township 135, Range 29, Crow Wing County, Minnesota.

Notwithstanding Fed. R. Bankr. P. 4001(a)(3), this order is effective immediately.

Dated this ____ day of _____, 2004.

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Gregory F. Kishel
United States Bankruptcy Judge